

### **REMARKS**

Claims 10-15 are pending in this application. Claim 10 been amended. No new matter has been introduced.

Claim 10 has been amended to address the rejection under 35 U.S.C. § 112, first paragraph, on the ground that the term “rigid” is not supported in the specification. The term “rigid” has been deleted from claim 10.

Claims 10, 11 and 13-15 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Grooms (Int. Application Pub. WO 99/21515) (“Grooms”) in view of Chow (U.S. Patent No. 5,176,682). Claim 12 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Grooms in view of Chow and further in view of Grooms et al. (U.S. Patent No. 6,045,554) (“Grooms ‘554”). These rejections are respectfully traversed.

The cited references (considered alone or in combination) do not disclose or suggest all limitations of claims 10-15. Neither Grooms, nor Chow, nor Grooms ‘554 discloses or suggests “a transverse eye . . . communicating with longitudinal channels formed on opposite sides of the implant and extending from the transverse eye to the tip in a direction aligned with the longitudinal axis of the distal end,” as claim 10 recites.

Grooms does not disclose or illustrate any channels in communication with an eye, much less in communication with a transverse eye. Chow is cited as disclosing channels, but Chow does not disclose or suggest “a tapered distal end” and a “transverse eye extending completely through said tapered distal end” for receiving a flexible strand to draw an implant into an opening in bone,” as independent claim 10 recites. Chow teaches surgical implement 10 provided with fins 16a, 16b and a recess 18 to allow

ligament L to be caught in the recess 18 before insertion into a hole. However, recess 18 of Chow is not an "eye" provided through a "tapered distal end" and is not "extending completely through said tapered distal end," as in the claimed invention. Because of its configuration (designed specifically for ligament positioning), the recess 18 of Chow is also not a "transverse eye," much less a "transverse eye for receiving a flexible strand," or a "transverse eye for receiving a flexible strand to draw said implant into an opening in bone," as claim 10 recites.

Grooms '554 is silent about any of the limitations of claim 10. Grooms '554 teaches an interference screw formed from a machined fragment of cortical bone with about 75-95% of its length covered by threads, and not an "implant for cross-pin anterior cruciate reconstruction surgery" having "a transverse eye for receiving a flexible strand to draw said implant into an opening in bone, said transverse eye extending completely through said tapered distal end in a direction transverse to the longitudinal axis of the distal end," as claim 10 recites.

Applicants also respectfully submit that a person of ordinary skill in the art would not have been motivated to combine the teachings of Grooms (regarding an "eye") with those of Chow (regarding a "channel"). Grooms relates to a bone implant having a rigid, mineralized bone segment, and a flexible, demineralized segment formed by exposing the implant to a HCl solution, for example. Grooms teaches that the demineralized segment has "sufficient flexibility to act as a ligament, tendon, or flexible support" (claim 3). In contrast, the crux of Chow is a surgical implement 10 provided with fins 16a, 16b and a recess 18 (to allow ligament L to be caught in the recess 18 before insertion into a hole) and also provided with a central bore 14 (to allow hollow tool T to matingly engage implement 10 to force the fins 16a, 16b outwardly against the sidewalls of

the hole). Accordingly, one skilled in the art would not have been motivated to combine the bone implant of Grooms, which has a demineralized segment that itself acts as a ligament or tendon between two body parts, with the surgical implement 10 of Chow, which is specifically designed to retain a ligament and which has a configuration (with a central bore that allows a tool to engage the implement) that allows it to rotate within a hole. One skilled in the art would also not have been motivated to combine the demineralized/mineralized bone segments of Grooms with the surgical implement of Chow provided with flexible fins that are “forced outwardly” into the bone hole, as the demineralized/mineralized bone segments of Grooms would not withstand any force exerted by such fins.

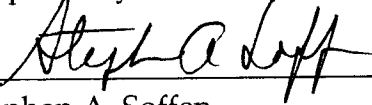
A person skilled in the art would also not have been motivated to combine the demineralized/mineralized bone segments of Grooms with the screw of Grooms '554, which is covered for about its entire length with threads and also provided with a square or hexagonal head (to allow engagement of a screw-driving implement) that is comparable to a metallic interference screw.

For at least the reasons above, the Office Action fails to establish a *prima facie* case of obviousness, and withdrawal of the rejection of claims 10-15 is respectfully requested. Applicants maintain all additional reasons regarding the patentability of claims 10-15 as set forth in the August 31, 2007 Amendment.

Allowance of all pending claims is solicited.

Dated: January 23, 2008

Respectfully submitted,

By 

Stephen A. Soffen

Registration No.: 31,063

Gabriela I. Coman

Registration No.: 50,515

DICKSTEIN SHAPIRO LLP

1825 Eye Street, NW

Washington, DC 20006-5403

(202) 420-2200

Attorneys for Applicants